

WILMOT MARSDEN.

[To accompany bill H. R. No. 532.]

JULY 21, 1842.

MR. RODNEY, from the Committee on Revolutionary Pensions, made the following

REPORT:

*The Committee on Revolutionary Pensions, to whom was referred the petition of Wilmot Marsden, of Oneida county, New York, widow of George Marsden, deceased, late an officer in the revolutionary war, report:*

That George Marsden, as appears from the original commission signed by Joseph Warren, and dated the 19th of May, 1775, was appointed adjutant in the regiment of foot commanded by Colonel James Scamman, raised by the Congress of Massachusetts Bay, and in this capacity the Commissioner of Pensions states that it appears he served for eight months, in 1775. On the 1st January, 1776, another commission, under the authority of the continental Congress, and signed by John Hancock, was issued to George Marsden, appointing him "second lieutenant of Capt. S. Darby's company in the 7th regiment of foot, commanded by Colonel William Prescott, and also adjutant of the said regiment." For proof of this, likewise, the original commission is produced. The Commissioner of Pensions, in regard to this appointment, states that there is no roll of Captain Darby's for the year 1776, but the name of George Marsden does not appear on the staff roll of the regiment. He also says that Darby's company were enlisted for twelve months, in 1776. These two commissions afford evidence of the service of George Marsden for a period of twenty months in the years in 1775 and 1776, and the Commissioner of Pensions limits the service to those two years. The affidavit, however, of Wilmot Marsden, the petitioner, declares that George Marsden was in the service and engaged at the capture of Burgoyne, which took place in 1777, and, as there is the very best proof of the service of Marsden in 1775 and 1776, and no necessary implication that the commission as adjutant of Prescott's regiment expired with the year, but, on the contrary, that it extended beyond the year 1776, it is proper to give credit to the affidavit of Mrs. Marsden. Considering, then, that George Marsden's service as adjutant extended through the years 1775, 1776, and 1777, or until the capture of Burgoyne, which took place in the summer or fall of 1777, the next matter of inquiry is, whether Wilmot Marsden, as the widow of George Marsden, is entitled to the benefit of the act of the 4th of July, 1836. To be so entitled, she must have been married before the termination of

the last period of service of her husband. This question has presented the only difficulty in the case. The petitioner alleges that she was married to George Marsden, in the month of November, 1775, at Mystic, Massachusetts, by the Rev. Mr. Martin, one of the professors at Cambridge, but she has no certificate of such marriage, neither is she able to prove the marriage by living witnesses, for the reason, as she alleges, that her husband and herself removed from Mystic in 1798, and that the persons who were present at their marriage are all of them since dead, nor, from the deficiency of the parish records of that day, is there any evidence of this marriage to be found from the register. There is, however, the affidavits of Henry Rhodes and Burnet Dundas, who say that they knew George Marsden from the year 1806 until his death, which happened in 1821; and that said Marsden and the petitioner during all that time lived together as man and wife. There are other affidavits to the same effect. But the strongest evidence, in regard to this point, is the family record of George Marsden, sworn to as such by the petitioner, and containing the names of the several children of George Marsden and the petitioner. The first of these, William Marsden, was born on the 14th of June, 1778. Considering this record as good secondary evidence of the marriage, and allowing the first child named to have been born after the usual period of gestation, it proves the marriage to have existed (without regarding the petitioner's affidavit) in the summer or fall of 1777, when, or about which time, according to the declaration of the petitioner, her husband was in service at the battle of Saratoga. In this view of the case, and the committee, from the whole evidence submitted, do not consider it a strained construction, the petitioner comes within the provisions of the act of the 4th of July, 1836, and they report a bill granting to Wilmot Marsden a pension for life for two years' service of her deceased husband, George Marsden, as an adjutant in the army of the Revolution.